

APPEAL NO. 040553
FILED APRIL 30, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 28, 2004. On the sole issue, the hearing officer determined that the respondent (claimant) sustained a compensable occupational disease injury with a date of injury of _____. The appellant (self-insured) appeals this determination essentially on sufficiency of the evidence grounds and complains that the hearing officer failed to define the compensable injury. The claimant urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable occupational disease injury with a date of injury of _____. An occupational disease is defined as "a disease arising out of and in the course of employment that causes damage or harm to the physical structure of the body," but does not include "an ordinary disease of life to which the general public is exposed outside of employment, unless that disease is an incident to a compensable injury or occupational disease." Section 401.011(34). To establish an occupational disease, the claimant must show a causal connection between the employment and the disease. See Texas Workers' Compensation Commission Appeal No. 91002, decided August 7, 1991 (discussing the standards for establishing causation in an occupational disease inhalation case); Texas Workers' Compensation Commission Appeal No. 991418, decided August 18, 1999; Texas Workers' Compensation Commission Appeal No. 012787, decided January 3, 2002. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). In view of the applicable law and the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The self-insured complains that the hearing officer failed to define the claimant's occupational disease. We note that extent of injury was not at issue in this proceeding, nor was it actually litigated. In the absence of such an issue, we do not agree that the hearing officer erred by not defining the extent of the claimed occupational disease injury.

The decision and order of the hearing officer is affirmed.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701.**

For service by mail the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.**

Edward Vilano
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Gary L. Kilgore
Appeals Judge